

DATE: September 19, 1988

TO: Steve Hogan, Deputy Director Water Utilities  
FROM: City Attorney  
SUBJECT: Metropolitan Sewerage System Advisory Board

You have asked what the proper notice requirement is for meetings of the advisory board and hence whether this noticing requirement is subject to the Ralph M. Brown Act. (California Government Code section 54950 et seq.)

The Brown Act explicitly applies to advisory committees created by formal action of a legislative body. California Government Code section 54952.3 provides:

Section 54952.3. "Legislative body": advisory  
committees

As used in this chapter "legislative body"  
also includes any advisory commission,  
advisory committee or advisory body of a local  
agency, created by charter, ordinance,  
resolution, or by any similar formal action of  
a legislative body or member of a legislative  
body of a local agency ....

While the advisory board is referenced in Sections 16 and 17 respectively of the individual contracts between the City and original and later participating agencies, no other formal action by the legislative body has occurred to create it, define its role or vest it with any authority. Hence we do not believe that mere reference in a document, albeit a contract, is sufficient formal action by a legislative body as contemplated by Government Code section 54952.3.

We are bolstered in our conclusion by the California Attorney General's conclusion that an internal bargaining committee created by a legislative body was not subject to the Brown Act since its purpose was more administrative in nature than advisory

in nature. 61 Cal. Ops. Atty. Gen. 1, 8 (1978) Similarly, a local admissions committee advisory to the superintendent of schools was not within the ambit of Section 54952.3 because it was not created by formal action of the legislative body. 56 Cal. Ops. Atty. Gen. 14, 16 (1973)

The Metropolitan Sewerage System Advisory Board is sufficiently similar to the above exempt committees to place it outside the Brown Act. While mentioned in the contracts at Sections 16 and 17 respectively, no subsequent formal action of the legislative body created the board. Secondly, its function

has been sporadic and functions in an administrative capacity to review problems with the City Manager, not the City Council. Hence we find the advisory board is not within the ambit of Section 54952.3. Finding no formal creation of this board, we likewise conclude Council Policy 000-16 is not applicable.

In light of the above two (2) conclusions, the appropriate noticing provisions for the advisory board is that provided in the contractual documents (Sections 17 and 18 respectively) and not the Ralph M. Brown Act or Council Policy No. 000-16.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

TB:js:453(x043.2)

ML-88-86